

Water Compliance Inspection Report

Section A: National Data System Coding (i.e., PCS)

| Transaction Code | | NPDES | yr/mo/day | Inspection Type | Inspector | Fac Type |
|--------------------------------------------|----|-----------|-----------|-----------------|-----------|----------|
| 1 | N | WA4000481 | 100331 | = | R | 3 |
| Remarks | | | | | | |
| 21 | | | | | | |
| Inspection Work Days | | | | | | |
| 67 | 20 | 69 | 71 | 72 | 73 | 74 |
| Facility Self-Monitoring Evaluation Rating | | 70 | 71 | 72 | Reserved | |
| | | | | | 75 | 76 |

Section B: Facility Data

| | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number) The Pomeroy Farm LLC 2343 W Willeys Lake Road Ferndale, WA 98248 | Entry Time/Date 10:40am 3/31/2010 | Permit Effective Date N/A |
| | Exit Time/Date 12:30pm 3/31/2010 | Permit Expiration Date N/A |
| Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s) Ed Pomeroy, owner/operator (b) (6) (phone) | Other Facility Data (e.g., SIC NA/ICS, and other descriptive information) SIC 0241 unpermitted | |
| Name, Address of Responsible Official/Title/Phone and Fax Number Ed Pomeroy, owner/operator 7304 Vista Drive Ferndale, WA 98248 (b) (6) (phone) | <div style="display: flex; align-items: center;"> <div style="margin-right: 20px;"> Contacted <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </div> <div style="border: 1px solid black; padding: 5px;"> <p style="margin: 0;">LAT</p> <p style="margin: 0;">LAT N 48.92085</p> <p style="margin: 0;">LAT W 122.60790</p> </div> </div> | |

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

| | | | | | | | |
|-------------------------------------|---------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------|--------------------------|-----|
| <input type="checkbox"/> | Permit | <input type="checkbox"/> | Self-Monitoring Program | <input type="checkbox"/> | Pretreatment | <input type="checkbox"/> | MS4 |
| <input checked="" type="checkbox"/> | Records/Reports | <input type="checkbox"/> | Compliance Schedules | <input type="checkbox"/> | Pollution Prevention | | |
| <input checked="" type="checkbox"/> | Facility Site Review | <input type="checkbox"/> | Laboratory | <input type="checkbox"/> | Storm Water | | |
| <input checked="" type="checkbox"/> | Effluent/Receiving Waters | <input checked="" type="checkbox"/> | Operations & Maintenance | <input type="checkbox"/> | Combined Sewer Overflow | | |
| <input type="checkbox"/> | Flow Measurement | <input type="checkbox"/> | Sludge Handling/Disposal | <input type="checkbox"/> | Sanitary Sewer Overflow | | |


Section D: Summary of Findings/Comments

(Attach additional sheets of narrative and checklists, including Single Event Violation codes, as necessary)

| SEV Codes | SEV Description |
|---------------------|-----------------|
| ● ● ● ● ● ● ● ● ● ● | |
| ● ● ● ● ● ● ● ● ● ● | |
| ● ● ● ● ● ● ● ● ● ● | |
| ● ● ● ● ● ● ● ● ● ● | |

report to follow



| | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|------------------|
| Name(s) and Signature(s) of Inspector(s) Kristin McNeill  | Agency/Office/Phone and Fax Numbers EPA/OCE (206) 553-6291 | Date 4/2/10 |
| Dustan Bott | EPA/OCE (206) 553-5502 | |
| | | |
| Signature of Management QA Reviewer  | Agency/Office/Phone and Fax Numbers | Date 04/20/10 |

PCS WAU 000481

PCS.
4-8-2010
JB

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**NPDES
Compliance Inspection Report**

Pomeroy Farm, LLC

Custer, Washington

March 31, 2010

**Prepared by:
Kristin McNeill
Environmental Scientist
U. S. Environmental Protection Agency, Region 10
Office of Compliance and Enforcement
Inspection and Enforcement Management Unit**

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Unless otherwise noted, all details in this inspection report were obtained from conversations with Ed Pomeroy or from observations during the inspection.

I. Facility Information

Facility Name: Pomeroy Farm, LLC

Facility Type: Dairy (SIC 0241)

Facility Contact: Ed Pomeroy, owner and operator

Facility Address: 2343 W Willeys Lake Road
Custer, WA 98247
Whatcom County

Mailing Address: 7304 Vista Drive
Ferndale, WA 98248

Contact Phone Number: (b) (6)
(b) (6) (cell phone)

GPS location: Lat: N 48.92085
Long: W 122.60790

II. Inspection Information

Inspection Date: March 31, 2010

Arrival Time: 10:40 am

Departure Time: 12:30 pm

Weather Conditions: Cloudy, approximately 50°

Purpose: Determination of compliance with the Clean Water Act.

III. Permit Information

The Pomeroy Farm does not currently operate under an NPDES permit.

IV. Owner and Operator Information

This facility is owned and operated by Ed Pomeroy.

V. Individuals Present

Inspectors affiliated with the U.S. EPA Office of Compliance and Enforcement were Kristin McNeill and Dustan Bott. Also present was Eric Bair, an inspector with the Washington State Department of Agriculture (WSDA).

Facility representative Ed Pomeroy was present for the inspection. Ed answered our questions and accompanied us throughout the entire inspection.

VI. Background and Activity

This is a dairy facility that Ed Pomeroy has been operating for approximately 40 years. Ed owns the main dairy facility and two heifer replacement farms that are all covered under the same Nutrient Management Plan. Neither heifer farm is adjacent to the main dairy property. Ed bought the first heifer farm, located on Arnie Road (W 48.92086, N 122.66874), approximately 6 – 7 years ago. Ed bought the second heifer farm, located on Bruce Road (W 48.91171, N 122.64341), approximately 20 years ago. Younger calves are moved from the main dairy to the first heifer farm at approximately four months of age. The older calves are transported to the second heifer farm when the first farm reaches capacity. Generally the heifers at the second heifer farm have been bred.

The bulk of the waste generated at all three facilities is in the areas where animals are confined and where feed is stored. This waste includes manure and urine deposited in the confinement areas, runoff from the silage storage area, and wash water from the milking parlor at the main dairy.

Waste handling at the main dairy consists of two lagoons and three below-ground storage tanks. Liquid waste is contained in the lagoons, which were designed by the National Resources Conservation Service (NRCS). Two of the below-ground storage tanks have capacities of 30,000 gallons, and the third has a capacity of 90,000 gallons. Overall, the main dairy has a capacity for approximately 5 – 6 months of waste storage. Each of the heifer farms has an on-site lagoon of unknown capacity.

The inspection of this dairy is part of EPA Region 10's Concentrated Animal Feeding Operation initiative.

VII. Inspection Entry

This was an unannounced inspection. Dustan Bott, Eric Bair, and I arrived at the facility at 10:40 am on March 31, 2010. Dustan Bott and I presented our credentials to Ed Pomeroy and explained the purpose of our visit.

Ed Pomeroy did not deny us access to the facility. We were allowed to inspect all areas that we wished to inspect.

VIII. Inspection Summary

A. Chronology

After gaining access to the facility, we began the inspection with a brief opening conference with Ed Pomeroy, in which I explained the purpose of the inspection. Following the opening conference, I proceeded to interview Ed about operations at the facility.

After the interview we proceeded to conduct a walk-through inspection of the facility. We walked the perimeter of the dairy production area and inspected the animal confinement pens, solids separator, silage bunkers, below-ground storage tanks, and the lagoons.

Following the walk-through of the main dairy facility, Ed agreed to allow us to inspect his two heifer farms. We followed him to each of the farms and performed a visual inspection of the waste storage lagoon at each facility.

We concluded the inspection with a closing conference with Ed Pomeroy in which we discussed observations and areas of concern identified from the inspection. We left the facility at 12:30 pm on March 31, 2010.

B. Number of Animals

At the time of inspection, Ed Pomeroy indicated that he owned approximately 2100 milking and dry cows, of which approximately 200 – 250 are dry. He also has approximately 300 calves at the first heifer farm and approximately 800 – 1000 heifers at the second heifer farm. The dairy's Nutrient Management Plan, which encompasses all three facilities, was developed for 1950 milking cows, 275 dry cows, 750 heifers and 750 calves.

C. Length of Animal Confinement

According to Ed Pomeroy, all of the animals at the main dairy are confined in pens throughout the year. The calves and heifers at the heifer farms are let out to pasture from April to mid-October. The pastures have fences to prevent the cows from accessing any adjacent surface water.

D. Presence of Vegetation in Confinement Areas

At the main dairy, the milking parlor and the barns where animals are fed and maintained had concrete floors. At both of the heifer farms, the barns where animals are fed and maintained had concrete floors. Based on my observations at the time of inspection, the confinement barns at all three facilities and the milking parlor at the main dairy were devoid of vegetation.

E. Feed Storage Area

The feed was stored in concrete bunkers and was covered with a roof (photo 1). At the main dairy, there is a drain that pumps any stormwater runoff from the feed storage area into one of the below-ground storage tanks (photo 2).

F. Nutrient Management Plan

The facility has implemented a Nutrient Management Plan (NMP) that was certified by the Whatcom Conservation District. The NMP was certified on August 7, 2003, and is kept at the facility. The animal numbers in the NMP were updated by N3 Consulting in 2008.

G. Waste Management Process

At the main dairy, waste from the barns is scraped using automatic scrapers into pits, which flow through tunnels into one of the below-ground storage tanks. From there, waste is pumped to the solids separator. Liquid waste is routed from the solids separator into the first lagoon (photos 3 – 6). Waste can be pumped between the two lagoons as needed.

At the first heifer farm, waste is scraped with a tractor directly into the lagoon on a daily basis (photos 7 and 8). At the second heifer farm, waste is scraped daily into a pit and is then pumped into the lagoon (photo 9). Neither heifer farm has a solids separator. At the second heifer farm, stormwater from the roofs is normally routed into a ditch, but can be routed into the lagoon to dilute the waste to make it easier to pump out.

The lagoons are pumped completely empty every fall, and all four were most recently emptied in fall 2009.

Solid and liquid manure is occasionally exported to berry farms in the surrounding area.

H. Land Application

Ed Pomeroy owns approximately 750 – 800 acres on which he land applies. With an additional 400 – 450 acres of leased property, he has approximately 1200 acres available for land application of manure. He uses a drag hose for liquid application. Solids are plowed under as they are applied.

Land application occurs approximately 4 – 5 times per year (after each cutting). Ed most recently land applied to high ground in February, 2010.

I. Facility Record Keeping and Inspections

Ed Pomeroy maintains records of land applications. He also performs periodic inspections to ensure proper operations and maintenance. The lagoons are inspected weekly.

J. Receiving Water

The nearest surface water is California Creek, which runs through Ed Pomeroy's field at the second heifer farm (photo 10). The creek eventually flows into Drayton Harbor in the Puget Sound. No surface water borders the main dairy or the first heifer farm.

IX. Areas of Concern

We conducted an interview with Ed Pomeroy and a walk-through inspection in which we examined the facility, including the confinement areas and waste handling system of the main dairy and the two heifer farms. At the time of inspection, we did not observe any discharges or areas of concern.

However, during the course of the inspection, Ed Pomeroy indicated that he had received a Notice of Correction following an inspection by WSDA on September 3, 2009 (Attachment C). The Notice of Correction was in regards to evidence found by Jason Pentzer, a WSDA inspector, that cows had not been restricted from accessing surface water in one of Ed Pomeroy's fields. During the current inspection, Ed indicated that the incident had occurred in a field that he was leasing and that he would not lease that land again.

Report Completion Date:

4/20/10

Lead Inspector Signature:



Kristin McNeill
(206) 553-6291

Attachment A: Photograph Documentation

(All photos taken by D. Bott on March 31, 2010)



Photo 1. Feed storage at the main dairy.



Photo 2. Arrow indicates direction of stormwater flow towards a pump that routes stormwater from the feed storage area into a below-ground storage tank.



Photo 3. Automatic barn scrapers with slot drains at the end of each barn.



Photo 4. Below-ground storage tank.

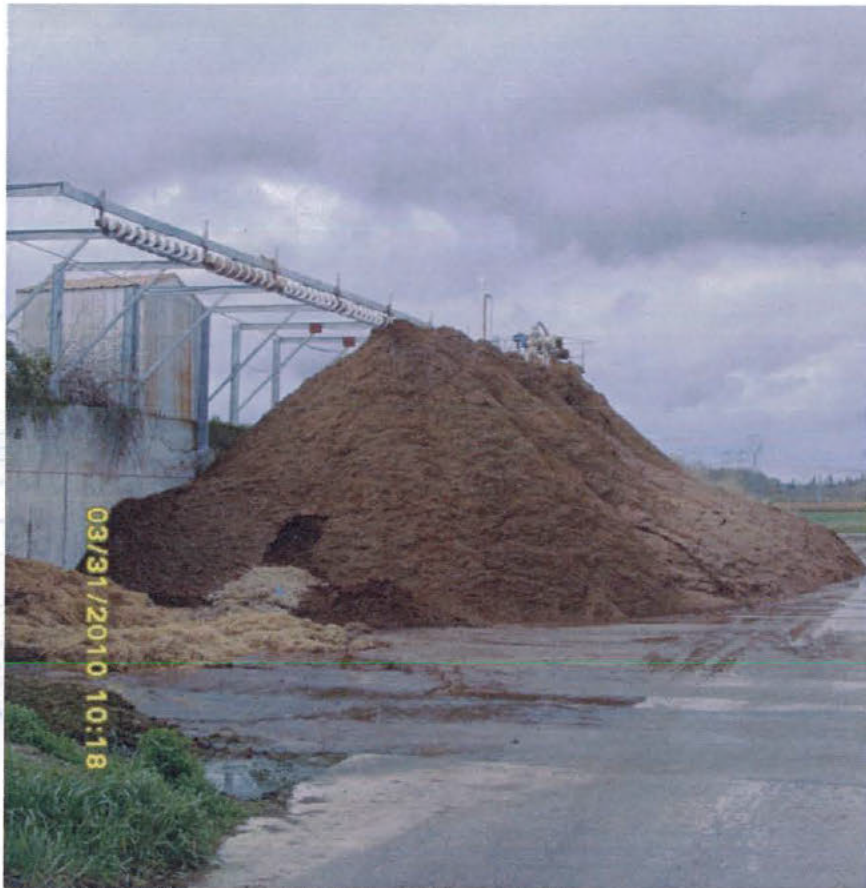


Photo 5. Solids separator.



Photo 6. First liquid storage lagoon at the main dairy.



Photo 7. Area that is scraped into the lagoon at the first heifer farm.



Photo 8. Lagoon at the first heifer farm with slot drain for scraping.



Photo 9. Waste storage lagoon at the second heifer farm.



Photo 10. Nearest surface water, California Creek (indicated with the arrow), to Ed Pomeroy's property at the second heifer farm.

Attachment B: Aerial photo
(image from Google Earth Pro)

Main dairy:



First heifer farm:



Second heifer farm:



ATTACHMENT C:

Washington State Department of Agriculture

Notice of Correction

and Supplemental Information regarding

September 3, 2009 inspection



STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE
P.O. Box 42560 • Olympia, Washington 98504-2560 • (360) 902-1800

October 14, 2009

ED POMEROY
POMEROY FARM LLC
7304 VISTA DR
FERNDAL, WA 98248-8719

RE: Inspection Activity Outcome

Dear ED POMEROY:

On September 3, 2009, Washington State Department of Agriculture (WSDA), Dairy Nutrient Management Inspector Jason Pentzer conducted a Follow-up Inspection of your nutrient management operations and facilities at POMEROY FARM LLC. I have already mailed you the report and photos for this inspection.

During the inspection the following items were noted:

- Thank you for getting your Waste Storage Planning sheets for the dairy updated in 2008.
- Dairy did not apply to 228 ac of the land in its Nutrient Management Plan in 2008 and applied much less manure than it could have applied to another 85.5 ac. Without using the 228 ac at all, the dairy is effectively operating at an animal density of 2.5 AU/ac, over the maximum allowed in its plan. This could partly explain the high N application rates that records show for 12 fields. Application rates are improved in 2008 compared to 2006 and 2007, however.
- Thank you for restricting animal access in Field #9 where access had previously been identified in the wooded area downhill from Vista Drive.
- At this inspection, evidence of animal access earlier in the year was identified in Field #20. This stream appears to run year round.
- Also, in Field 24 the water trough being so close to the roadside ditch creates a heavy use area next to the ditch, but at this time of the year the ditch is dry and cattle are already off pasture.
- In Fields 9 and 11, fencing is in place, but in a few places near cattle culvert crossings there are bare areas from heavier animal traffic. Cattle were still out in parts of these two fields at this time of year.

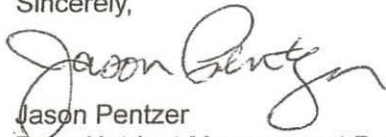
Follow up activity to be completed by you includes:

- **Restrict animals from accessing stream in pasture #20 before animals go out next spring, by 5/30/10. Maintain 3 inch high vegetated filter strip adjacent to all streams and ditches running through pastures as required in your NMP.**
- Calibrate application equipment by 5/30/10.
- Reduce applications of N to fields to levels planned for in NMP. Excess N applications have the potential to pollute groundwater.

- By 04/30/09, Review your NMP nitrogen balance again considering the exports being made and that the dairy is not using 228 ac that is shown in its plan. I understand that you have faced some challenges in applying to these specific fields. However, if the dairy continues not to use them, it may need to add other acreage or exports or adjust herd size to stay in balance.

Thank you for your time and for your on-going attention to nutrient management and water quality. If you have concerns or would like to discuss the outcome of your inspection or the activities identified needing follow up, please contact me at (360) 961-7412.

Sincerely,



Jason Pentzer
Dairy Nutrient Management Program

cc: Chris Clark, Whatcom Conservation District

STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF COMPLIANCE OF
Mr. Ed Pomeroy

NOTICE OF CORRECTION
NUMBER 09AGRDNMP1017

To: Mr. Ed Pomeroy
7304 Vista Drive
Ferndale, WA 98248-8719

For the site located at:
Pomeroy Farm LLC
2343 Willeys Lake Road
Custer, WA 98240

This Notice of Correction Number 09AGRDNMP1017 is issued under authority of Revised Code of Washington (RCW) 43.05.100 (Technical Assistance) and RCW 90.48.120(1) (Water Pollution Control). This determination does not constitute an order or directive under RCW 43.21B.310 and is not appealable to the Pollution Control Hearings Board (PCHB).

On August 29, 2007 Jason Pentzer, Department of Agriculture Dairy Nutrient Management Inspector, notified Ed Pomeroy, Pomeroy Farm LLC, that he observed evidence of animal access in Field 9 to a tributary of California Creek. On December 22, 2008, Fred Likkel, N3 Consulting representing Pomeroy Farm LLC, provided copies of photos of management practices that were implemented to correct this situation.

On September 3, 2009 Mr. Pentzer inspected Pomeroy Farm LLC. Mr. Pentzer found evidence that animals had access to surface waters in one of the dairy's pastured fields. Mr. Pentzer also found that some vegetative filter strips adjacent to ditches and streams in other pastures did not meet practice standards identified in your nutrient management plan due to heavy animal traffic. These conditions create a substantial potential for discharge of pollutants to waters of the state.

RCW 90.48.080 states: "It shall be unlawful for any person to throw, drain, run, or otherwise discharge into any of the waters of this state, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharged into such waters any organic or inorganic matter that shall cause or tend to cause pollution of such waters according to the determination of the department, as provided for in this chapter."

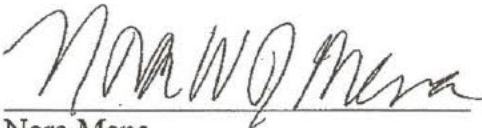
To achieve compliance with the above, and to avoid penalties, you must prevent the discharge of pollution into waters of the state from your property and therefore take actions necessary to maintain vegetated filter strips and restrict animal access as identified in your nutrient management plan immediately.

Failure to comply may result in formal enforcement action, which could include penalties of up to \$10,000.00 per day, per violation.

Mr. Ed Pomeroy
December 4, 2009
Page 2 of 2

You may request an extension for compliance with this notice by submitting a request in writing to Virginia Prest, Dairy Nutrient Management Program, Washington State Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560. Extensions are granted at the discretion of the department and will be granted only where good cause is shown. Technical assistance with compliance with the applicable statutes and rules is available from the Department by contacting Virginia Prest at the address above.

Dated this 4th day of December, 2009 at Olympia, Washington.

A handwritten signature in dark ink, appearing to read "Nora Mena", is written over a horizontal line.

Nora Mena

Program Manager, Dairy Nutrient Management Program
Washington Department of Agriculture

